

HOUSE BILL 3873

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 8 and Title 38, relative to fingerprinting of arrestees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-4-115(a)(1)(B) is amended by deleting the subdivision in its entirety and by substituting instead the following:

(B) A set of fingerprints; if fingerprints are maintained manually, the booking agency shall mail two (2) sets of properly completed fingerprint cards to the Tennessee bureau of investigation. If fingerprints are transmitted to the Tennessee bureau of investigation electronically, the booking agency shall maintain with the arrest report one hard copy of the fingerprints along with an acknowledgement from the Tennessee bureau of investigation that a copy of the fingerprints have been received and accepted.”

SECTION 2. Tennessee Code Annotated, Section 8-4-115(a)(2) is amended by deleting the language “two (2) full sets of”.

SECTION 3. Tennessee Code Annotated, Section 8-4-115(c)(1) is amended by deleting the language “, including but not limited to, two (2) full sets of classifiable fingerprints taken at arrest and the maintenance by the arresting agency of at least an eighty-five percent (85%) retention rate by the Tennessee bureau of investigation of such fingerprints”.

SECTION 4. Tennessee Code Annotated, Section 8-4-115(c)(4) is amended by deleting the subsection in its entirety.

SECTION 5. Tennessee Code Annotated, Section 8-4-115(e) is amended by deleting the subsection in its entirety.

SECTION 6. Tennessee Code Annotated, Section 8-8-201(a)(35)(A) is amended by deleting the language “two (2) full sets of fingerprints” and by substituting instead the language “a

full set of fingerprints” in the first sentence and by deleting the second sentence and by substituting instead the following:

If fingerprints are maintained manually, two (2) full sets of fingerprints shall be obtained and sent to the Tennessee bureau of investigation. If fingerprints are maintained electronically, a set of fingerprints shall be transmitted to the Tennessee bureau of investigation.

SECTION 7. Tennessee Code Annotated, Section 38-3-122(a)(1) is amended by deleting the existing language and by substituting instead the following:

(1) It is the duty of every booking agency to take, or cause to be taken, a full set of fingerprints of each person arrested, whether by warrant or capias, for an offense that results in the person's incarceration in a jail facility or the person's posting of a bond to avoid incarceration; provided, that fingerprints are not required to be taken of an individual who is repeatedly arrested and incarcerated for a violation of § 39-17-310, the offense of public intoxication; provided, that the booking or arresting officer has verified that the individual's fingerprints are on file from a previous arrest; and provided further, that fingerprints are not required to be taken of individuals whose fingerprints have previously been stored in the electronic fingerprint imaging files of the law enforcement agency booking the individual, if the arresting or booking officer has verified that the individual's fingerprints are on file through the use of a single digit imaging reader. If the fingerprints are maintained manually, the booking agency shall send a full set of properly completed fingerprint to the Tennessee bureau of investigation. If fingerprints are transmitted to the Tennessee bureau of investigation electronically, the booking agency shall maintain with the arrest report one hard copy of the fingerprints along with an acknowledgement from the Tennessee bureau of investigation that a copy of the fingerprints have been received and accepted. Upon receipt of the fingerprints, the

Tennessee bureau of investigation shall retain the fingerprints as provided in § 38-6-103, and shall send a set of the fingerprints to the federal bureau of investigation.

SECTION 8. Tennessee Code Annotated, Section 38-3-122(a)(2) is amended by deleting the existing language and by substituting instead the following:

(2) Regardless of whether fingerprints are found to be on file in a law enforcement agency, nothing in subdivision (a)(1) shall be construed as relieving the booking officer from:

(A) Reproducing a copy of the fingerprints that are on file;

(B) Updating the arrest data; and

(C) Then forwarding a full set of fingerprints to the Tennessee bureau of investigation in compliance with this section.

SECTION 9. This act shall take effect July 1, 2008, the public welfare requiring it.